IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO. 7178 OF 2005

Mr. Ajaykumar s/o Prabhashankar
Maroo, of Bombay, Indian Inhabaitant
adult, aged about 48 years, by
profession Advocate, residing at
A-3, 21 Mahesh Nagar, S. V. Road,
Goregaon (West), Bombay-400 062. .. ..Applicant

Versus

The State of Maharashtra,
through Inspector Incharge,
Nirmal Nagar Police Station,
Mumbai (To be served through
Public Prosecutor, High Court,
Mumbai). .. .. .. .Respondent

Shri. A. M. Saraogi, Advocate, for the Applicant.
Smt. S. D. Shinde, A. P. P., for the Respondent-State.

CORAM : S. C.DHARMADHIKARI, J.
DATE : NOVEMBER 16, 2005

P. C.

. The applicant is an Advocate and Notary Public

registered under the Notaries Act, 1952. He applies for anticipatory bail because he apprehends his arrest in connection with the complaint lodged by one lady against the friend of her husband who, under the garb of affirming an affidavit stating that she has no connection with the husband of the complainant, took her to a Marriage Bureau and obtained her signatures on blank documents. On these blank documents, Declaration -cum- Affidavit was made that the friend of the husband of the complainant had indeed married the complainant. The complainant states that the entire version is false and her signatures have been obtained on blank documents and the contents revealed to her and those subsequently filled in are distinct. She has been cheated. She alleges that the blank documents have been notarised by the applicant-Advocate, and therefore, he is also entitled to be charged with the said offence of cheating and forgery.

2. The applicant states that as a Notary, he was not concerned with the contents of the documents and that all that he was required to do was to comply with the provisions of the Notaries Act, 1952 and the Rules which has been done in this case. He states that he is not aware of the alleged relationship of the complainant and the friend of her husband, nor is he

concerned with the unauthorised Marriage Bureau and the persons conducting the same.

3. Shri. Saraogi, learned Counsel appearing for the applicant, states that the applicant has co-operated in the investigation. The necessary documents, including the specimen signatures and other particulars, are forwarded to the concerned Police Station. Further, the applicant is willing to handover the extract of the Register pertaining to the concerned docucments. He submits that being a Practising Advocate and having a permanent place of residence in Mumbai, the applicant is not likely to abscond or otherwise hamper the investigation and smooth conduct of the trial. In these circumstances, he deserves to be granted protection.

4. Shri. Saraogi further submits that the applicant was not concerned directly with the persons and the docucments and that these persons were identified by Advocate Shri. K. N. Pande. These persons, including the said Advocate, have been enlarged on bail by the regular Court.

5. Smt. Shinde, the learned A.P.P., submits that there is a serious violation of the provisions ot the

Notaries Act, 1952 and the Rules and that it is a fit case where the documents concerned could not have been notarised when it was blank according to the complainant. She submits that the applicant is likely to carry on such acts in future as well.

6. In my view, considering the role attributed to the applicant as a Notary, and further investigation being complete and the other accused being enlarged on bail, the applicant deserves protection in the event of his arrest, more particularly because the applicant is a Practising Advocate in this Court as well as in other Courts. That he has a permanent residence. That he has been granted protection by this Court on October 26, 2005 and the said order has not been misused by him.

7. Accordingly, the applicant is granted bail in the following terms.

(i) In the event of the arrest of the applicant in connection with C.R.No. 34 of 2005 of the Nirmal Nagar Police Station, Mumbai, the applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs. 5,000/= with two sureties in the like

amount.

(ii) The bail is granted subject to condition that the applicant will attend the concerned Police Station as and when required. The applicant will not leave the country without the permission from the appropriate Court. This order is without prejudice to the rights of the respondent to proceed against the applicant for the alleged violation of the Notaries Act, 1952 and the Rules.

(iii) The Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The applicant shall not tamper with the Prosecution evidcence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the beneifit of the applicant only till chargesheet is filed. Thereafter he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

(S. C. Dharamadhikari, J.)